

**Prepared Statement of
Commissioner John Lehman
National Commission on Terrorist Attack Upon the United States
Before the Aviation Subcommittee
Committee on Transportation & Infrastructure
U.S. House of Representatives
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Aviation Security

Chairman Mica, Ranking Member DeFazio, distinguished members of the Committee, we thank you for holding this hearing on the 9/11 commission's recommendations, and for your leadership on issues of aviation security for many years.

Mr. Chairman, two years ago, Congress worked together in a bipartisan manner to create the National Commission on Terrorist Attacks Upon the United States.

Similarly, over the past 20 months the members of the Commission, five Republicans and five Democrats, have worked together with a sense of unity and purpose. We stand together in unanimous support of our recommendations.

Today, we call upon Congress and the administration to display the same spirit of bipartisanship as we collectively seek to make our country and all Americans safer and more secure.

You asked me to address, today, the Commission's recommendations with regard to aviation security. Thank you for this opportunity.

The ability of Americans to travel safely and securely is central to the exercise of our cherished personal freedoms. The capacity to transport goods efficiently and reliably across the country and throughout the world is indispensable to America's economic progress. We are a mobile, dynamic society. We depend upon open, accessible, transportation systems. Terrorists know that. It's the reason they target transportation. It's why we must stop them.

Intelligence

Much attention has been devoted to the Commission's recommendations to change the structure of the intelligence community. We are convinced that these crucial reforms will make the nation safer. But we also know that no matter how good the collection, analysis and sharing of intelligence, we simply cannot expose every terrorist or discover every plot. Therefore, we must defend our critical infrastructure, including transportation, vigorously and consistent with America's principles and values.

TSA

Nearly three years ago, Congress created the Transportation Security Administration. Much of the agency's time and resources have been devoted to organizing itself. TSA has been striving to meet various congressional mandates that were essential in shoring up our defenses in the immediate aftermath of the 9/11 attacks.

The bulk of TSA's attention and funding has been directed toward aviation security—including hiring and training a new federalized screening workforce, and installing explosives detection equipment at the nation's airports.

We still have much work to do in the aviation security arena, including cargo screening and general aviation. We know that terrorists are looking for vulnerabilities in other modes including:

- maritime;
- rail;
- mass transit; and
- surface transportation.

Mr. Chairman, the American people understand that in a free society we cannot protect everything, everywhere, all the time. But they expect their government to make rational decisions about how to allocate limited resources to address those areas where the terrorist threat to transportation is highest, the nation's vulnerabilities are greatest, and the consequences of a successful attack most severe.

Hard choices must be made in allocating limited resources. The United States government should:

- identify and evaluate the transportation assets that need to be protected;
- set risk-based priorities for defending them;
- select the most practical and cost-effective ways of doing so, and
- develop a plan, budget, and funding to implement the effort.

Strategic Planning

Despite congressional deadlines, TSA has developed neither an integrated strategic plan for the transportation sector nor specific plans for the various modes. Without such plans neither the public nor Congress can be assured we are identifying the highest priority dangers and allocating resources to the most effective security measures.

In making decisions about how to allocate limited resources to defend our vast transportation network, we believe strongly that TSA must use risk management. This requires that the government evaluate the greatest dangers not only in terms of terrorist intentions as we understand them, but also taking into consideration the vulnerabilities of the nation's infrastructure and the consequences of potential attacks.

In the late 1990s the FAA's intelligence branch considered the possibility that a terrorist group might hijack a domestic commercial aircraft and crash it into a building. But aviation security policymaking was a threat-based system. The intelligence community had no specific evidence that terrorists were plotting to conduct such an operation. Therefore, suicide hijacking was dismissed as unlikely. Had the major consequences of such an attack been considered, it would have demanded stronger action. The fact is, Mr. Chairman, we did imagine the use of hijacked commercial aircraft as weapons. We just didn't imagine that we had to do anything about it. We must not make that mistake again.

We need a blueprint for TSA and each mode of transportation. These plans must contain basic elements necessary to assure the public, the administration and Congress that our security systems are comprehensive, properly targeted and well conceived.

This includes:

- spelling out specific goals;
- determining what security standards and practices will be employed to achieve them;
- identifying how standards will be enforced and progress measured;
- clearly establishing who's responsible for what elements of the security system; and
- recognizing how much the plans will cost and who should pay for implementation and how.

These are essential elements of a credible plan. It's tough work, and requires difficult decisions, but it must be done. The Commission believes that Congress should:

- set a specific date for the completion of these vital plans;
- hold the Department of Homeland Security responsible for achieving them; and
- assure that the agency has the necessary resources to implement them.

TSA is now nearly three years old. It has done much good work. However, the time for "planning to plan" is past. We need specific blueprints that provide the architecture to defend critical transportation infrastructure.

Layered System

In implementing our defenses, Mr. Chairman, we must not lose sight of the fact that no layer of security is foolproof. Previous aviation security commissions, including the Pan Am Commission in 1990, the Gore Commission in 1997 and the National Research Council stressed the importance of the "layered" approach to security. This means instituting redundant defenses to assure that if one layer breaks down, another is in place to provide protection.

On 9/11 the only layer of protection to stop suicide hijackers was checkpoint screening—a layer that had a long history of problems. Checkpoint screening permitted the short-

bladed knives the hijackers carried. The passenger prescreening program was designed to stop terrorists who might sneak a bomb into checked baggage. The pre 9/11 hijacking response doctrine required flight crew to cooperate with hijackers, presumably because they sought transport or hostages. After the terrorists passed the checkpoints on 9/11 they were virtually assured of successfully hijacking the aircraft. There were no layers of security to stop them.

Once it was clear that the terrorists' purpose was something quite different, the most powerful layer of defense in our country—the public—swung into action. An alert flight crew and passengers made all the difference, and stopped Flight 93 from reaching Washington.

As the members of the Committee know well, layering has long been a useful tool in promoting aviation safety. Redundant systems on aircraft assure that if a mechanical or electrical problem occurs, back-up systems are in place to assure that a single-point failure is not catastrophic. We must use the same approach in security.

As it plans and implements transportation security, TSA must take into consideration the full array of possible enemy tactics, and assure that we have multiple, effective layers coordinated to stop them.

Congressional Oversight

Before 9/11 FAA's security division listed the various ways in which commercial aviation could be attacked and the corresponding defenses. As the events of 9/11 proved, this matrix was incomplete.

We think it is very important that Congress provide vigorous oversight of these planning documents and their implementation. The TSA should be required to list all the various forms of attack and the different tactics that terrorists could employ. It should identify the layers in place to address each form of attack, and evaluate the reliability of each layer. Such reporting by TSA will help the Department of Homeland Security, TSA, the Administration and Congress better identify and address weaknesses we must fix. Such reporting will also pinpoint honestly those areas where we will remain vulnerable in the near term. This effort should be an integral part of the planning and oversight process. Comprehensiveness, transparency, candor and accountability are the watch words.

No Fly Lists

Mr. Chairman, one of the most important layers of security we can employ is stopping individuals the United States government knows or strongly suspects to be terrorists from entering our country and accessing our transportation systems. We have provided a number of recommendations in the immigration and border protection area.

Among them is that the improved use of “no fly” and “automatic selectee” lists. Use of these lists should not be delayed while the argument about a successor to the CAPPS prescreening system continues.

- This screening function should be performed by the TSA, not the air carriers.
- It should utilize the larger set of terrorist watchlists maintained by the federal government, and
- Air carriers should be required to supply the information needed to test and implement this new system.

Currently, TSA provides two security watchlists to air carriers. One is a no-fly list of known and suspected terrorists prohibited from boarding a commercial flight. The second is a list of suspicious individuals who should receive special screening at the checkpoint—known as “automatic selectees.” TSA requires that air carriers enforce the no-fly rule and notify checkpoint screeners of individuals who must receive special screening.

Under the current policies, however, these lists do not include the names of all terrorists known to the federal government. As we understand it, the intelligence community does not want air carriers to possess many of these names because they could tip-off terrorists or compromise sensitive sources and methods of intelligence collection.

As the Commission described in its final report, two of the 9/11 hijackers were placed on the U.S. State Department’s TIPOFF terrorist watchlist in August 2001. However, the names were never reported to the FAA to be placed on a no-fly security directive. This was a missed opportunity to foil at least part of the attack.

How, Mr. Chairman, would the United States government explain it to the American people if an individual were allowed to board and attack a commercial plane when we knew that person was a terrorist and had the power to stop them?

The only way to avoid this obstacle is to make TSA, rather than the private air carriers, responsible to manage and enforce the “no-fly” lists, using the broadest possible list of terrorist names. If a terrorist attempts to fly, TSA, not the air carriers, should be the first to know and act.

TSA has intended to take over the function, but tied it to the implementation of a new computer assisted passenger prescreening system known as CAPPS II. As we know, CAPPS II has languished over privacy concerns. TSA has shelved it.

Nevertheless, we believe the government must move forward with implementing the “no-fly” and “automatic selectee” list, and should assume this responsibility as soon as possible. Although there will surely be logistical and technical challenges to implementation, we are confident that if assigned the appropriate urgency, these challenges can be overcome.

The Commission also believes that we should continue every effort to share watchlists with nations allied in the war against terror to increase the effectiveness of immigration and transportation watchlisting. Successfully fighting global terrorism requires global cooperation.

Checkpoints

Mr. Chairman, we all recognize that a vital element of transportation security, particularly at airports, is checkpoint screening to stop weapons from being brought aboard aircraft. We know that Congress has struggled with screener performance problems for many years. It is a very difficult issue.

Congress created the TSA to take over the screening function to improve the effectiveness and professionalism of those we entrust to find and stop weapons at the checkpoint. Screeners have a tough job and we're grateful for their service. Under TSA, they are better trained, better paid and have a career path. However, checkpoint screening still isn't as effective as it must be. We still have major vulnerabilities.

The TSA and Congress must give priority attention to improving the ability of screening checkpoints to detect prohibited items:

- The TSA should conduct a comprehensive human factors study, a method often used in the private sector, to understand problems in screener performance and set attainable objectives, for individual screeners and for checkpoints where screening takes place.
- Explosives detection is particularly important. As a start, each individual selected for special screening should be screened for explosives.

Human factors

Certainly, providing better and more effective screening technology is an important strategy in improving checkpoint performance. Technology is crucial and we must vigorously support research and development to make screening equipment more capable and reliable. However, we know that the human element will always be critical in making the essential judgments that are made every day at airport checkpoints across the country.

Training, experience, and equitable pay are key to assuring a top screener workforce – but not sufficient. Other factors are obviously coming into play affecting screener performance. Only by understanding these factors can we maximize the effectiveness of what will always be a critical component of our transportation, as well as border security, function.

In the case of 9/11 we saw the important role that the human element played. An immigration official stopped the 20th hijacker from entering the country because he used his experienced judgment. An air carrier customer service representative at Dulles

designated two of the hijackers as security selectees because he found them to be suspicious.

As we stated in our report, we do not suggest that this should be an invitation to arbitrary exclusions. But any effective system has to grant some scope --perhaps in a little extra inspection or one more check--to the instinct and judgment of well trained human beings. It can make all the difference.

Explosives

One of the lessons the Commission learned is that after aviation incidents in the past, such as Pan Am 103 and TWA 800, the nation reacted with a battery of initiatives to address the perceived problem. Some refer to it as “fighting the last war.” Of course, we must fill the gaps exposed by incidents. It would be irresponsible to do otherwise. However, we must not only look back, we must constantly look forward and commit ourselves to stopping the “next war.” In this regard, we believe TSA should better address the issue of explosives.

We must expand efforts to ensure that passengers are fully screened for explosives at checkpoints, beginning with a focus on automatic selectees and others chosen for additional security scrutiny. The shoe bomber case involving terrorist Richard Reid is an example of this vulnerability which must be addressed.

The Commission’s report highlighted two other key components of the effort to address the explosives threat. The first is moving forward with in-line explosive screening of checked bags. Today, many of the machines used to screen checked baggage for bombs sit in the public lobby of airports. Passengers, air carrier personnel or TSA workers must haul bags to the machines where they are screened and then sent back to the conveyer belt for transport to the loading areas.

The Commission supports an effort to move explosives units out of airport lobbies and into a secured area where they can be integrated into the process of moving the bags from the check-in counter to the loading area in a seamless, in-line process. This will promote greater security, because:

- screening machines will not be exposed to the public;
- screeners will be able to focus on screening bags rather than moving them; and
- fewer people will be congregated around machines in the public area

Moreover, processing bags from checking to loading through an in-line system is functionally more efficient making travel more convenient as well as more secure. TSA has identified this initiative as a priority but it is expensive—estimated to be \$5 billion for the major airports. Because the airlines and airports will benefit, they should share in the cost of the effort. The Commission understands that at some airports structural changes at the airport will be required to accommodate the effort. This will take time and money but we should get about the business of making it happen.

The issue of cargo security is also crucial. TSA must improve its efforts to identify and physically screen cargo. This endeavor should be matched by assuring that all passenger aircraft have at least one hardened, blast-resistant container to hold suspect and randomly chosen cargo. The FAA identified this reform as a goal over six years ago and it remains undone. Much has been done and can be done to reduce the cost and increase the effectiveness of such containers. We are confident that the private sector will respond with even further innovations as we move forward with the recommendation.

Conclusion

In conclusion, Mr. Chairman, we are mindful that our recommendations will cost money. Though we did not have access to OMB or CBO budget experts, we believe the improvements in aviation security we recommend will require substantial investment. We are mindful that resources are limited. But we have seen the devastating costs in human life and economic disruption that result from a successful attack. It is a worthwhile investment, and one necessary to fulfill the government's Constitutional duty to provide for the common defense.

We wish to thank you and this committee for holding this hearing and for your ongoing commitment to assuring air travel that is accessible, efficient and secure.

We are grateful for your leadership, and look forward to your questions.

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